



1 Van Jepmond v. Employment Security Dep't, PAB No. L86-15 (1988), aff'd Thurston Co. Super.  
2 Ct. No. 88-2-00274-3 (1989).

## 3 4 **II. FINDINGS OF FACT**

5 2.1 Appellant Kathleen McKinney was a Training Coordinator for Respondent Department of  
6 Social and Health Services (DSHS) in the Region 5 Community Services Division. Appellant and  
7 Respondent are subject to Chapters 41.06 and 41.64 RCW and the rules promulgated thereunder,  
8 Titles 356 and 358 WAC. Appellant filed a timely appeal with the Personnel Appeals Board on  
9 July 14, 2000.

10  
11 2.2 By letter dated July 21, 2000, Linda Evans, Regional Administrator, informed Appellant that  
12 due to a lack of funds, her position was being reduced in force (RIF'd) effective at the close of her  
13 work shift on August 7, 2000. Ms. Evans was Appellant's appointing authority.

14  
15 2.3 Appellant began her employment with the state of Washington in 1992. During this time,  
16 she worked in a number of temporary positions for several different agencies. Immediately prior to  
17 her appointment as the Region 5 Training Coordinator, Appellant was a Transportation Planning  
18 Specialist (TPS) 4 in the Washington General Service (WGS) for the Department of Transportation.  
19 Appellant achieved permanent status in the TPS 4 position.

20  
21 2.4 Appellant began employment with DSHS in the Training Coordinator position on April 3,  
22 2000. Her position was located in the administrative office and did not have a direct impact on  
23 client services.

1 2.5 The Training Coordinator position was in the Washington Management Service (WMS).  
2 Appellant was required to complete a 12-month review period before gaining permanent status in  
3 this position. Appellant had not completed her 12-month review period prior to her RIF, and as a  
4 result, she did not become a permanent WMS employee.

5  
6 2.6 For fiscal year (FY) 2000/2001, DSHS experienced a reduction in fulltime equivalent (FTE)  
7 employee allotments and a reduction in its salary budget. As a result, agency-wide cuts were  
8 mandated. In Region 5, a total of 19 positions were to be eliminated. The region's goal was to  
9 implement the reductions with the least impact on clients and the services provided by field staff.

10  
11 2.7 To accomplish the reductions, nine temporary positions were eliminated, eight vacant  
12 positions were left unfilled, and two permanent positions were abolished. Appellant's position was  
13 one of the two permanent positions to be abolished.

14  
15 2.8 DSHS management began informal discussions about the impending RIFs in the spring of  
16 2000. On June 16, 2000, Ms. Evans told Appellant that her position was being abolished.

17  
18 2.9 Appellant, Ms. Evans, human resource staff and others began making contacts to locate a  
19 position for Appellant. They contacted administrators and managers in other departments,  
20 distributed Appellant's resume and asked other departments to consider Appellant for vacant  
21 positions.

22  
23 2.10 Because Appellant had not gained permanent status in the WMS position, she could not be  
24 offered WMS positions as RIF options. (WAC 356-56-550). However, she had gained permanent  
25  
26

1 status in the general service, therefore, she was eligible to be offered general service positions as  
2 RIF options. (WAC 356-30-330).

3  
4 2.11 Prior to implementing Appellant's RIF, Respondent determined that she had no formal RIF  
5 options within DSHS because DSHS had no positions that performed duties similar to those  
6 performed by the general service TPS 4 position that Appellant previously occupied. Therefore,  
7 Respondent searched for informal RIF options. Ultimately, a temporary vacancy in a  
8 Developmental Disabilities Administrator 1 position was found at Rainer School. Appellant was  
9 qualified for the position and accepted it as an informal RIF option.

10  
11 2.12 Appellant was given formal notification of her RIF by letter dated July 12, 2000. The letter  
12 stated that the effective date of the action would be July 31, 2000. By letter dated July 21, 2000,  
13 Appellant was notified that the effective date of her RIF had been extended to August 7, 2000.

### 14 15 **III. ARGUMENTS OF THE PARTIES**

16 3.1 Respondent argues that Appellant's RIF was the result of a lack of funds and that the  
17 decision to RIF Appellant's position was within the discretion of the agency. Respondent asserts  
18 that there is no credible evidence that the RIF was for reasons other than efficiency purposes due to  
19 budget reductions. Respondent acknowledges that the process of Appellant's RIF created a  
20 confusing and difficult situation because it is rare for a WMS employee to be RIF'd during the  
21 review period. Respondent asserts that the WMS RIF rules did not apply to Appellant's situation;  
22 therefore, because she was a permanent state employee, the agency followed the process for a WGS  
23 reduction in force. Respondent contends that DSHS had no positions comparable to Appellant's  
24 previous WGS position. Respondent argues that appropriate informal options were identified for  
25  
26

Appellant, that she accepted an option that allowed her to gain more DSHS experience, and that she is still employed with the agency.

3.2 Appellant acknowledges that Region 5 needed to reduce positions; however, she argues that the reason for reducing her position was not valid. Appellant argues that during the RIF process, Respondent provided her with incorrect information and failed to provide her assistance in obtaining a comparable position. Appellant asserts that prior to her appointment as the Training Coordinator, Ms. Evans told her that the position was a permanent position and would not be reduced in force. Appellant asserts that when Ms. Evans told her about the RIF, she stated that the reason was that there was less training staff, not that there was a lack of funds. Appellant argues that prior to the RIF, Ms. Evans encouraged her to spend money for training because excess training funds were available. Therefore, she contends that no lack of funds existed. Appellant asserts that the real reason for her reduction in force was Ms. Evans' personal dislike for her and not a lack of funds. Appellant argues that her position was important and necessary for the region, that the Training Coordinator was a permanent position, and that Respondent could have created a comparable position for her as a RIF option.

#### IV. CONCLUSIONS OF LAW

4.1 The Personnel Appeals Board has jurisdiction over the parties hereto and the subject matter herein.

4.2 In an appeal of a reduction-in-force, Respondent has the burden of proof. WAC 358-30-170. Respondent has the burden of proving by a preponderance of the credible evidence that it laid the employee off for the reason stated in the RIF letter. O’Gorman v. Central Washington University, PAB No. L93-018 (1995).

1  
2 4.3 Respondent has met its burden of proof that Appellant's reduction in force was the result of  
3 a lack of funds.

4  
5 4.4 In Amundsen v. Dep't of Labor and Industries, PAB Case No. L85-1 (1985), aff'd (Thurston  
6 Co. Super. Ct. No. 85-2-02185-9 (1987), the appointing authority determined, upon the  
7 recommendation of an assistant, that to accomplish the revised goals of his administration, a  
8 position could be better used if it was reallocated to another class. The Board held that it is not the  
9 Board's function to probe the mental processes by which the decision was reached, or to substitute  
10 its judgment for that of the agency when there is a showing of reasonable basis for such decision.  
11 Here as in Amundsen, we will not substitute our judgment for that of the agency in regard to which  
12 positions to eliminate.

13  
14 4.5 In Van Jepmond v. Employment Security Dept., PAB No. L96-15 (1988), aff'd Thurston  
15 Co. Super. Ct. No. 88-2-00274-3 (1989), the Board determined that when a lack of funds is  
16 demonstrated, a RIF may be upheld even when there is a showing of the possibility of another  
17 motive, such as personal animosity, for abolishing a position.

18  
19 4.6 In this case, we do not find any credible evidence of an ulterior motive for Appellant's RIF.  
20 However, even if we had, following the reasoning used in Van Jepmond, when a lack of funds is  
21 demonstrated, a RIF may be upheld even when there is a showing of the possibility of another  
22 motive for abolishing a position.

23  
24 4.7 The appeal should be denied.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

**V. ORDER**

NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal of Kathleen McKinney is denied.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

WASHINGTON STATE PERSONNEL APPEALS BOARD

\_\_\_\_\_  
Walter T. Hubbard, Chair

\_\_\_\_\_  
Gerald L. Morgen, Vice Chair

\_\_\_\_\_  
Leana D. Lamb, Member